UTAH DEPARTMENT OF HEALTH AND HUMAN SERVICES DIVISION OF SERVICES FOR PEOPLE WITH DISABILITIES POLICY AND PROCEDURES	
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NOTICE OF AGENCY ACTION AND HEARING RIGHTS	

RATIONALE:
The intent of this policy is to protect and preserve a Person's right to a fair and impartial hearing if their eligibility for division services is suspended, denied, or reduced.

Authorizing Code: 26B-403
Rule: R539-3, R497-100, R410-14
Federal Code: 42 CFR 431.220(a)(1)(iv); 42 CFR 431.200
Forms: 522-I, 490S

Original Effective:	Revision:	Next Review Due:
NA	12/29/2025	12/29/2030

I. DESCRIPTION

A. This policy establishes protocols for providing a Notice of Agency Action (NAA) and hearing rights. It further establishes procedures to complete an appeal. It is intended to protect and preserve a Person's right to a fair and impartial hearing.

B. The division may use either the informal administrative hearing process, a dispute resolution process, or both, to resolve a dispute. The choice of which process to use is solely at the discretion of the Person or their guardian (if applicable). If a settlement is reached as part of the dispute resolution process, no hearing shall be held.

C. The dispute resolution process described here intends to assist the division when responding to a dispute of an agency action concerning the reduction, denial, suspension, or revocation of reimbursement for services, or the denial or termination of eligibility for participation in a program. The dispute resolution process is not intended to limit a Person's access to an informal administrative hearing. However, if a settlement is reached as part of the dispute resolution process, no hearing shall be held.

II. DEFINITIONS

The following terms are defined for this policy as:

A. **AAG:** means the Assistant Attorney General assigned to the division.

B. **Agency Action:** means a decision by the division that results in a proposed action to suspend,

terminate, or reduce services, as defined in 42 CFR 431, Subpart E.

C. **Department:** means the Department of Health and Human Services (DHHS).

D. **Dispute:** means a disputed issue of fact regarding details relevant to an agency action issued by the division.

E. **Division:** means the Division of Services for People with Disabilities, as defined in Section 26B-6-401.

F. **Division of Integrated Healthcare, Office of Long Term Services and Supports (DIH/LTSS):** means the operational unit of the department that acts as the State Medicaid Authority (SMA) for Utah.

G. **Hearings Administrator:** means division staff who are responsible for coordinating informal administrative hearings and the division dispute resolution process.

H. **Hearing Request Form (490S):** means the form that accompanies the NAA Form 522-I when sent by the division. The 490S is completed and returned to the division to request an informal administrative hearing.

I. **Imaged document:** means a scan or other graphic reproduction of an original signed document for electronic transfer or upload.

J. **Informal administrative hearing:** means a type of adjudicative proceeding as described in Sections R497-100, R410-14 and 63G-4-201 through 63G-4-203.

K. **Notice of Agency Action (NAA):** means a completed Form 522-I.

L. **Office of Administrative Hearings (OAH):** means the department's office that conducts fair hearings for most divisions of DHHS.

M. **Person:** means an eligible individual receiving a division service or on the waiting list for division services.

N. **Support coordinator (SC):** means an employee of the division or an individual contracted with the division who assists with:
   1. assessing the need of a Person receiving division funding;
   2. completing written documentation of support;
   3. developing a service and support plan for a Person receiving division funding;
   4. monitoring the appropriate spending of a Person's annual budget;
   5. monitoring the health and welfare of the Person; and
   6. monitoring the quality of each service used by a Person receiving division funding.
   7. If a Person receives waiver services, a support coordinator shall assure compliance with each waiver program requirement.

III. POLICY & PROCEDURES

A. A NAA is issued whenever there is:

   1. an initial or subsequent state eligibility determination; or

   2. a decision that suspends, terminates, or reduces a Person's services or reduces the rate for a variable rate service.

B. The division shall send the Person or their guardian (if applicable) a written NAA on Form 522-I

at least 10 days before the changes are made to the PCSP budget and then also upload it to USTEPS.

C. The support coordinator may initiate a request for needs adjustment. A NAA is not required when a needs adjustment change is approved in accordance with Directive 1.49 Request for Services. If the needs adjustment change is denied for reasons described in Directive 1.49 Request for Services, then a NAA shall be sent.

D. Utah Code grants hearing rights.

   1. If the Person exclusively receives non-waiver services, they or their guardian (if applicable) has the right to request an informal administrative hearing with the OAH under Rules R539-3, R497-100, and Sections 63G-4-202 through 63G-4-203.
   2. If the Person receives waiver services, they or their guardian (if applicable) has the right to request an informal administrative hearing with the OAH under Rules R539-3, R410-14, and Sections 63G-4-204 through 63G-4-208.
   3. The Person or their guardian (if applicable) shall also be granted hearing rights if the Person is denied eligibility for waiver services they have applied for.

E. The division shall simultaneously send the Person or their guardian (if applicable) a Form 490S when the division sends the Form 522-I.

F. A Person or their guardian (if applicable) shall have 30 days from the date the NAA was either postmarked or emailed to them to appeal the disputed decision and request a hearing.

   1. If the division receives the completed 490S by email or with a postmark that is within 10 days of the mailing date the NAA was sent, for all matters that do not involve fraud or abuse, the division shall begin the appeal process and may not take the action described in the NAA while the appeal is still pending. The hearings administrator shall notify the division's Budget Specialist team that the action is being held while the appeal is pending.
   2. If the division receives the completed 490S by email or with a postmark that is more than 10 days from the mailing date the NAA was sent, but still within 30 days, the division may take the action described in the NAA and then begin the appeal process.
   3. If the division receives the 490S by email or with a postmark that is more than 30 days from the mailing date the NAA was sent, the right to appeal has expired and the action described in the NAA shall proceed.

G. A Person or their guardian (if applicable) may request a division dispute resolution process, an informal administrative hearing, or both.

   1. A Person or their guardian (if applicable) may use the division's dispute resolution process alone or before an informal administrative hearing.
   2. If the Person or their guardian (if applicable) requests a hearing and chooses the division dispute resolution process, the Person shall complete the dispute resolution process before the informal administrative hearing begins. If a settlement is reached through the dispute resolution process, the administrative hearing shall be cancelled.
      a) If a Person or their guardian (if applicable) selects both the dispute resolution process and an informal administrative hearing, upon completion of the dispute resolution process, the hearings administrator shall forward the request for an informal administrative hearing to the division's AAG and the OAH.

b) To preserve the Person's right to an informal administrative hearing, the Person or their guardian (if applicable) may file a request for an informal administrative hearing before the 30-day deadline.

H. The hearings administrator shall coordinate the request for an informal administrative hearing. If the Person or their guardian (if applicable) requests an informal administrative hearing, regardless of whether they receive waiver services or state-funded-only services, the hearings administrator shall email the following information and materials to the OAH upon completion of the dispute resolution (if applicable) at utmedicaidhearings@utah.gov and also copy it to the division's AAG, with the subject line: Informal Administrative Hearing Request for [Person's name]:

1. the completed 490S;
2. a copy of the NAA;
3. the name, mailing address, email address, and phone number of the individuals who are handling the matter for the division; and
4. the name, email address, and phone number of the Person or their guardian (if applicable), and the Person's support coordinator.

I. The hearings administrator shall:

1. document that they have received a 490S; and
2. update USTEPS in the NAA screen by checking off the corresponding NAA and each requested appeal process, updating the appeals screen to indicate when the 490S was received by the division, and uploading the form 490S as an imaged document.
3. The hearings administrator shall also upload the form 490S to the DSPD Appeals Google drive folder; and
4. update the Google sheet called the Appeals Tracking Sheet. The Appeals Tracking Sheet is accessible only to department staff who need this information to perform their job duties, including the division AAG.

J. The hearings administrator shall oversee the dispute resolution process. The hearings administrator shall consult with all appropriate parties regarding the disputed decision, including relevant division staff, such as representatives from the DIH/LTSS as the SMA.

K. The hearings administrator shall coordinate with the Person or their guardian (if applicable) and anyone else that the Person or their guardian (if applicable) requests to be present at a virtual meeting.

1. If the Person or their guardian (if applicable) requests to meet in-person at the Cannon building, this preference shall be granted.
2. If the Person or their guardian (if applicable) requests to speak via teleconference instead of a virtual meeting, this preference shall also be granted.
3. The hearings administrator shall create a Google calendar invitation and include all the participants.

L. The assistant director or other division staff may participate in the dispute resolution meeting at the request of the hearings administrator.

M. The hearings administrator shall conduct the dispute resolution meeting. During the meeting, they shall:

1. inform the Person or their guardian (if applicable) that the dispute resolution meeting is an informal opportunity to settle the matter by discussing the action taken and presenting any additional information, perspective, or other relevant details regarding their appeal; and
2. inform the Person or their guardian (if applicable) that the division shall attempt to settle the dispute after considering the information presented at the dispute resolution meeting.

N. The hearings administrator shall draft a dispute resolution letter and email it to the Person or their guardian (if applicable), and their support coordinator, and anyone else the Person or their guardian (if applicable) requests to be part of the process. The letter shall also be forwarded to the division's Individual Budgets team (if applicable).
    1. The dispute resolution letter shall communicate whether the matter was settled and if it was settled, the letter shall detail the settlement agreement. If no settlement was reached, the letter shall communicate the next steps for the Person or their guardian (if applicable) if they also requested an informal administrative hearing. If a settlement was reached through the dispute resolution process, the administrative hearing shall be cancelled.
    2. If the Person or their guardian (if applicable) requested an informal administrative hearing, the letter shall include the information as it appears below (in 3). If no settlement was reached, it is the sole decision and responsibility of the Person or their guardian (if applicable) to either proceed with the informal administrative hearing or request to withdraw from it.
    3. If an informal administrative hearing has been requested, the language in the letter shall include the following, or its equivalent: We understand that you requested an informal administrative hearing with the Office of Administrative Hearings for this matter. If a settlement was reached through the dispute resolution process, the administrative hearing shall be cancelled. If no settlement was reached, but you are no longer interested in pursuing this option, please email your request for withdrawal to utmedicaidhearings@utah.gov. If you have questions about the informal administrative hearing process, please call 801-538-6576.

O. The hearings administrator shall:
    1. document the outcome;
    2. update USTEPS by updating the appeals screen, and uploading the dispute resolution letter and OAH legal notices (if applicable) as imaged documents;
    3. upload the dispute resolution letter, any applicable OAH legal notices, and all other relevant appeal case documents to the "DSPD Appeals" Google drive folder; and
    4. update the Appeals Tracking Sheet.

P. For appeals that were not resolved as a result of the dispute resolution process, and where the Person or their guardian (if applicable) has requested an OAH informal administrative hearing, the hearings administrator shall:
    1. email a copy of the dispute resolution letter to the division AAG;
    2. notify the AAG that the Person or their guardian (if applicable) has requested an informal administrative hearing; and

3. provide all documentation and information to the division AAG necessary to proceed to the administrative hearing.

Q. The hearings administrator shall be available to the AAG as requested, and shall represent the division as needed throughout the informal administrative hearing process.